

CALIFORNIA COASTAL COMMISSION

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F6b



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APPEAL STAFF REPORT - SUBSTANTIAL ISSUE DETERMINATION

Appeal number.....A-3-SLO-03-122, First Baptist Church

Applicant.....First Baptist Church, Attn: Bob Tubbs, Pastor

Appellants.....Scott Kimura and Sally Requa

Local governmentSan Luis Obispo County

Local decisionApproved with Conditions (December 2, 2003)

Project location1900 Los Osos Valley Road, San Luis Obispo County (approximately ½ mile east of community of Los Osos).

Project description.....Construct a 3,637 square foot addition to the existing 4,685 square foot sanctuary, 2,500 square feet of new classroom space, and remodel of the existing 2,400 square foot modular classrooms into a fellowship hall on a 2.1 acre site.

File documents.....San Luis Obispo County Certified Local Coastal Program (LCP); San Luis Obispo County Final Local Action Notice (D020105D).

Staff recommendation ...No Substantial Issue

Summary of staff recommendation: San Luis Obispo County approved a proposal to construct a 3,637 square foot addition to the existing 4,685 square foot First Baptist Church sanctuary, 2,500 square feet of new classroom space, and remodel of the existing 2,400 square foot modular classrooms into a fellowship hall. The project is located off of Los Osos Valley Road on a 2.1-acre site ½ mile east of the community of Los Osos. The Appellants contend that the approved project would be incompatible with the surrounding neighborhood due to increased traffic, noise, parking, and wastewater disposal.

The incremental impact of this project on the surrounding suburban neighborhood would be negligible because the County-approved project meets LCP traffic circulation requirements, has been designed using a variety of structural soundproofing techniques, provides adequate on-site parking, and has been conditioned to ensure that expansion of the septic system meets County Department of Environmental Health and Regional Water Quality Control Board (RWQCB) standards. Thus, Staff recommends that the Commission find that **no substantial issue exists** with respect to this project's conformance with the certified LCP, and that the Commission decline to take jurisdiction over the coastal development permit for the project.



California Coastal Commission

February 20, 2004 Meeting in La Jolla

Staff: J. Bishop Approved by:

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1. Appeal of San Luis Obispo County Decision

A. San Luis Obispo County Action

San Luis Obispo County approved this proposed project subject to multiple conditions on December 2, 2003 (see exhibit C for the County's adopted findings and conditions on the project). The County's approval was by the Board of Supervisors following an appeal of the Planning Commission's original approval. The current Appellants in this matter before the Commission are the same persons who appealed the Planning Commission's decision.

Notice of the Board of Supervisor's action on the coastal development permit (CDP) was received in the Coastal Commission's Central Coast District Office on December 16, 2003. The Coastal Commission's ten-working day appeal period for this action began on December 17, 2003 and concluded at 5pm on December 31st, 2003. One valid appeal (see below) was received during the appeal period.

B. Appeal Procedures

Coastal Act Section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands,



submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. Churches and schools are identified as a 'S' use in Table 'O' (Part I of the Land Use Element) for the Residential Suburban (RS) zone. An 'S' use is a "special use" that is allowable but subject to special standards and/or processing requirements. This project is appealable because the church expansion is not designated as the principally permitted use under the zoning ordinance.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified LCP or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a de novo coastal development permit hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under Section 30604(b), if the Commission conducts a de novo hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is not located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone, and thus this additional finding does not need to be made in this case.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the de novo stage of an appeal.

C. Appellants' Contentions

In general, the Appellants raise concerns about the compatibility of church use and the potential "overbuilding" of churches within this residential suburban area. Specifically, the Appellants contend that the approved project is inconsistent with the LCP standards and ordinances in four main areas: (1) Traffic; (2) Parking; (3) Noise; and (4) Wastewater Capacities. Please see exhibit D for the Appellants' complete appeal document.

2. Staff Recommendation on Substantial Issue

The staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of no substantial issue would mean that the County's decision in this matter would be final (conversely, a finding of substantial issue would bring the project under the jurisdiction of the Commission for hearing and action).



Motion. I move that the Commission determine that Appeal Number A-3-SLO-03-122 raises **no** substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act.

Staff Recommendation of No Substantial Issue. Staff recommends a **yes** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

Resolution to Find No Substantial Issue. The Commission hereby finds that Appeal Number A-3-SLO-03-122 does not present a substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act regarding consistency with the Certified Local Coastal Program and/or the public access and recreation policies of the Coastal Act.

Recommended Findings and Declarations

The Commission finds and declares as follows:

3. Project Description

A. Project Location

The proposed development is located along Los Osos Valley Road, at the northeast intersection of Lariat Avenue, ½ mile east of the community of Los Osos. The site is roughly rectangular in shape and totals 2.1 acres in size. Access to the site is from Lariat Avenue. Larger parcels characterize this area, of which many are developed with single-family residences. Agricultural fields surround the residential area and general church environs (see Exhibit A for a location map). An existing 4,685 square foot church sanctuary is located near the center of the property. Adjacent to the sanctuary is a 2,400 square foot modular classroom. On-site parking is located to the rear of the property and north of the sanctuary building. In this case, the Appellants own neighboring properties developed with single-family residences. The site is located in the Residential Suburban land use category of the certified LCP.

B. County Approved Project

The County approved project includes a 3,637 square foot addition to the existing sanctuary, 2,500 square feet of new classroom space, and remodel of the existing 2,400 square foot modular classrooms into a fellowship hall. The County also approved a reduction in the number of required on-site parking spaces (52 paved spaces and 20 overflow spaces) due to the fact that the various uses proposed on the site have distinct and differing peak traffic usage periods. The County approval includes a limit of 100 students for the church's preschool/childcare facility. The County has required that the expansion of the church septic system meet Environmental Health and Regional Water Quality Control Board standards prior to construction. See Exhibit B for County-approved plans and Exhibit C for the adopted County findings, and conditions approving the project.



4. Substantial Issue Findings

A. Analysis of Consistency with Cited Policies

As detailed below, the appeal does not raise a substantial issue with respect to the project's conformance with the San Luis Obispo County LCP.

1. Traffic

The Appellants contend that the county approved project is inconsistent with the traffic and circulation standards of the LCP. The LCP requires that religious meeting facilities and related activities (e.g. classrooms and fellowship halls) within the urban or village reserve line are to be located on a road identified as a collector or arterial roadway. Coastal Zone Land Use Ordinance (CZLUO) Section 23.08.066 states in part:

Section 23.08.066 (b) - Location. *Within an urban or village reserve line, church facilities and related activities shall be located on a road identified as a collector or arterial roadway by the Land Use Element...*

As described previously, the project is located near the intersection of Los Osos Valley Road and Lariat Avenue. Los Osos Valley Road is described in the LCP as a road with increasing traffic, which has lead to greater safety problems in recent years. The Appellants contend that the approved project adversely impacts intersection safety and would overburden the intersection, particularly in comparison to neighborhood residential traffic that shares the same access.

First, the project site is not located within the urban reserve line as shown on maps in the LCP's Land Use Element. Thus, the ordinance cited by the Appellants (23.08.066) does not directly apply to the proposed development. Second, Los Osos Valley Road is an arterial road as defined in the Land Use Element (Chapter 4 – Circulation, Estero Area Plan). Thus, the project is consistent with the cited LCP standards covering to project's location relative to the type of access roads serving the church project. With respect to traffic safety and circulation, the LCP does not specifically contain intersection safety standards or traffic circulation policies related to new development proposals such as this. The County has recognized the traffic dangers in the area and has conditioned the project to include the widening of Lariat Drive to accommodate a right hand turn lane onto Los Osos Valley Road (See County Findings and Conditions in exhibit C). As a result, the traffic circulation and safety issues of this appeal contention do not raise a substantial issue.

In sum, the County-approved project is not inconsistent with the location standards required for church activities along this stretch of Los Osos Valley Road. While the appellant's raise valid concerns about safety along Los Osos Valley Road, the appeal contentions related to traffic safety and circulation do not rise to the level of a substantial issue in terms of the project's conformance with the certified LCP.



2. Parking

The LCP requires that adequate parking be provided for the proposed church site. The LCP states:

CZLUO Section 23.04.166(4) Mixed Use Sites: *Where a site contains more than one principal land use (such as a shopping center), the amount of parking required is to be the total of that required for each individual use, except as otherwise provided by Section 23.04.162 (Off-Street Parking Required).*

CZLUO Section 23.04.162(e) Shared peak-hour parking: *Where two or more nonresidential uses have distinct and differing peak traffic usage periods (e.g. a theater and a bank), the required number of parking spaces may be reduced through Minor Use Permit approval, in addition to the parking reduction allowed by subsection d. above...The total number of spaces required for all uses sharing the parking may be reduced to no less than the number of spaces required by Section 23.04.166 for the single use among those proposed which is required to provide the most parking.*

The following table summarizes the LCP parking requirements:

<u>LCP Standard</u>	<u>Required/Allowed</u>	<u>Proposed</u>
Parking	Church – 1 per 4 fixed seats = 46.5 School – 2 spaces for each classroom = 30 Fellowship Hall – 1 per 40 square feet = 52 TOTAL = 130.5 spaces required	52 spaces proposed * The applicant is requesting a modification to the 130.5 space requirement under the shared peak-hour parking adjustment (CZLUO Section 23.04.163(e). See discussion in findings below.

In addition the Appellants state that the project is inconsistent with CZLUO Section 23.04.163, which states:

CZLUO Section 23.04.163 – Location of Parking on a Site:

b. Use of side and rear setbacks: *Side and rear setbacks may be used for vehicle parking except on the street side of a corner lot.*

The Appellants contend that the approved project is inconsistent with the LCP parking requirements under Section 23.04.166(4) and that increased parking needs as a result of the church expansion would negatively impact the surrounding residential neighborhood due to parking overflow, particularly during larger events such as weddings. The Appellants have requested that additional conditions be added to the approved project that would limit site capacity to avoid the possibility of overflow parking in the adjacent neighborhood. While the Appellants are correct in their assertion that parking should be



accommodated onsite for this type of development, they did not cite the applicable LCP ordinance 23.04.166(4) in its entirety. Section 23.04.166(4) does in fact allow a reduction in the number of required spaces under Section 23.04.162(e), if it can be found that two or more uses on the site have distinct and differing peak traffic periods. In this case, it is reasonable to anticipate that the three uses proposed for the subject site (classrooms, sanctuary, and fellowship hall) will not regularly be occurring simultaneously and during peak traffic periods. For example, the daycare facility would operate during weekday afternoons while primary use of the church sanctuary would occur on weekends. Under the parking modification ordinance (Section 23.04.162(e)) the total number of spaces required must meet the use requiring the greatest number of parking spaces. In this case, the fellowship hall would require the most parking (52 spaces) which must be accommodated onsite. The County has approved the requisite number of parking spaces (52) under the LCP and also conditioned the project to provide 20 additional overflow parking spaces in the play yard area.

In addition, the Appellants contend that the County approved project is inconsistent with CZLUO Section 23.04.163 (Location of Parking on a Site) because vehicle parking spaces are shown on the approved project plans within the rear setback area of the property. However, a close reading of the cited ordinance reveals that parking is in fact allowed in rear setbacks except on the street side of a corner lot. The subject parking spaces are not on the street side of a corner lot and therefore meet the LCP requirement. Thus, the issue of parking in setback areas does not raise a substantial issue.

The approved project is an expansion of an existing church use. Although it will incrementally add to the amount of parking demanded, its impact would be less than significant, particularly because two or more of the uses proposed have distinct and differing peak traffic usage periods. During the occasional instance where overflow parking may occur due to simultaneous use of two or more non-related activities, the impacts would be temporary and of limited duration. Therefore, this issue does not rise to the level of a substantial issue in terms of the project's conformance with the certified LCP.

3. Noise

With respect to noise levels, the LCP states:

Section 23.060.040 – Noise Standards: *Sections 23.06.040 through 23.06.050 of the Coastal Zone Land Use Ordinance establish standards for acceptable exterior and interior noise levels and describe how noise is to be measured. These standards are intended to protect persons from excessive noise levels, which are detrimental to public health, welfare and safety and contrary to the public interest because they can: interfere with sleep, communication, relaxation and the full enjoyment of one's property; contribute to hearing impairment and a wide range of adverse physiological stress conditions; and adversely affect the value of real property. It is the intent of this chapter to protect persons from excessive levels of noise within or near various residential development and other specified noise-sensitive land uses.*

In addition to the noise standard cited above, the Appellants contend that the expanded church project is inconsistent with CZLUO Section 23.08.074(c)6 regarding noise from outdoor daycare activities.



The LCP states:

CZLUO Section 23.08.074(c)6 Noise Control – outdoor uses. *Where one or more parcels adjoining the site of a large family day care home or child care center are in a residential land use category and are developed with single-family dwellings, outdoor play or activity areas shall not be used by client children before 8 A.M., except:*

(i) Where such outdoor areas are located no closer than 100 feet from any dwelling other than that of the applicant;...

As noted, the church project is located in a residential suburban area. The nearest neighboring dwellings are within 100 ft. of the playground area serving the daycare use. The County's LCP requires that noise levels associated with new development not adversely impact the quality of life or property values in the surrounding neighborhood. One way that this is met is through limiting the time in which outdoor activities such as daycare playground use may occur (23.08.074(c)6). The Appellants contend that the expanded church development will increase noise levels, particularly following evening youth group activities, and in turn will affect living values and real estate values. The Appellants contend that more stringent evening noise controls should be placed on the project. The Appellants suggest that buildings should be moved and that all outside activities end at sunset.

The cited ordinance, CZLUO Section 23.08.074, states that outdoor play (which leads to noise) from childcare centers should not begin before 8:00 A.M. In this case, outdoor play activities do not begin before 8:00 A.M. The Appellants are correct in their assertion that the cited policy does not set evening noise control time limits. However, to address these concerns the County has conditioned the project requiring that all outdoor activity must end by 9:00 PM Sunday through Thursday and 10:00 P.M. Friday and Saturday. In addition, the County approval restricts sound amplification equipment outdoors, and has limited the number of special events to 12 times per year.

In this case, the County reasonably concluded that as conditioned the expanded church project would not be detrimental to the welfare of persons residing in the neighborhood of the use. Although the Appellants raise valid concerns regarding the level of noise that may occur, the impacts in this case would be relatively minor. The noise levels generated by the expanded church use are not incompatible with existing development along Los Osos Valley Road and the adjacent neighborhood.

Therefore, this issue does not rise to the level of a substantial issue in terms of the project's conformance with the certified LCP.

4. Wastewater

The Appellants do not cite any specific LCP policies in their appeal related to the issue of wastewater. Rather, the appeal refers to the project not meeting recommendations of the Regional Water Quality Control Board (RWQCB) to minimize septic discharge, and not having a septic system designed to prevent groundwater contamination. Furthermore, the Appellants are requesting that the project include the installation of routine sampling and monitoring wells on the church site. See Exhibit D for the Appellants' complete appeal document.



Thus, the appeal contentions can be distilled to a contention that the approved project would be inconsistent with the LCP Public Works Policy 1. As required by Public Works Policy 1, all new development must demonstrate that there are sufficient public service capacities to serve the development. It states:

Public Works Policy 1: Availability of Service Capacity:

New development (including divisions of land) shall demonstrate that adequate public or private service capacities are available to serve the proposed development...

It is estimated that the on-site septic system will process 1,400 gallons per day. The Regional Water Quality Control Board (RWQCB) does not generally regulate on-site systems that process less than 2,500 gallons per day. Furthermore, the project is located outside of the RWQCB prohibition area for new waste discharges. In this case, the County Environmental Health Department and the Building Department are charged with this responsibility. All septic systems reviewed by these departments must be consistent with the RWQCB Basin Plan requirements. In general, Basin Plan criteria for septic systems include analysis of site conditions, percolation rates, separation to groundwater, g/acre nitrogen loading, etc. In this case, the County Environmental Health Department reviewed the proposed expansion of the septic system. They concur with the County's condition to require all necessary testing and evaluation prior to issuance of the building permit. The County also concluded that requiring the church to install new groundwater monitoring wells was not warranted in this case. In addition, the proposed septic system layout plan also shows that adequate separation (over 100 feet) exists between the church septic system and neighboring water wells (See Exhibit E).

This issue does not rise to the level of a substantial issue in terms of the project's conformance with the certified LCP.

B. Substantial Issue Conclusion

The County-approved project is an expansion of an existing church related use. The approved project would not have substantial adverse impacts on traffic, parking, noise, and wastewater capacities. Thus, Staff recommends that the Commission find that no substantial issue exists with respect to this project's conformance with the certified San Luis Obispo County LCP and declines to take jurisdiction over the coastal development permit for the project.

